

## LIVESTOCK AUCTIONS

*The Board's legal counsel prepared the following legal opinions in 1996.*

**QUESTION #1:** Is a livestock market operator licensed under sec. 95.68, Stats., who conducts auctions only of livestock at the facility, also required to be registered as an auctioneer under Ch. 480, Stats?

**OPINION:** No.

**REASONING:**

1. Persons conducting auctions within the scope of a license granted by another state agency are not required to be registered as an auctioneer. (sec. 480.02(2)(j), Stats.)
2. A livestock market operator is required to obtain a license issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). The license authorizes its operator to maintain a facility "open to the public for the purpose of trading in livestock". (sec. 95.68(1)(e), Stats.)
3. A livestock dealer may also engage in the "business of buying for resale or for slaughter, selling or exchanging livestock" under the DATCP license. (sec. 95.69(1)(c) and sec. 95.69(2), Stats.)
4. To the extent that the livestock market operator limits its auction sales activities to conducting an auction respecting the sale of livestock at the livestock market, an auctioneer's registration is not required.

**QUESTION #2:** Is a livestock market operator licensed under sec. 95.68, Stats., who auctions goods in addition to livestock, such as machinery, farm equipment, hay, etc., also required to be registered as an auctioneer under Ch. 480, Stats?

**OPINION:** Yes.

**REASONING:**

1. The exemption from registration as an auctioneer extends only to practice within the scope of the DATCP license. (sec. 480.02(2)(j), Stats.)
2. Although a livestock market license is required by DATCP for the trading of livestock, that license is not required for the auction of machinery, farm equipment, hay or other goods. Therefore, the auction of goods other than livestock at the facility falls outside the scope of DATCP" license. (sec. 95.68(1)(e), Stats.)
3. Since the auction of goods other than livestock is beyond the scope of DATCP's license, the livestock market operator loses the exemption provided under sec. 480.02(2)(j), Stats., and must obtain **an** additional registration as an auctioneer.
4. Accordingly, in order for a livestock market operator to auction both livestock and other goods at a livestock market, DATCP's license is required for the livestock, and additional registration as **an** auctioneer is required to auction the other goods.

**QUESTION #3:** Do the responses above apply similarly to livestock dealers licensed under sec. 95.69, Stats., who conduct farm auctions?

**OPINION:** Yes.

**REASONING:**

1. A livestock dealer's license is generally required by DATCP for anyone who "as a principal or agent, engages in the business of buying for resale or for slaughter, selling or exchanging livestock." (sec. 95.69(1)(c), Stats.)
2. A livestock market operator's license is also required if the person auctions livestock owned by farmers other than the farmer at whose farm the auction is held (i.e., a "consignment" auction). (sec. 95.69(1)(c)3.a., Stats.)
3. Therefore, two criteria must be met in order to be practicing within the scope of the livestock dealer" license in farm auctions, so as not to be required to also possess registration as an auctioneer: (1) The auction must consist of livestock AND, (2) Some of the livestock at the auction must have been provided by consignment by another farmer or farmers.
4. If the farm auction includes goods in addition to consigned livestock, such as machinery, farm equipment or hay, the sale is beyond the scope of a livestock dealer's license. Accordingly, registration as an auctioneer is necessary, in addition to the livestock dealer's license.
5. If the farm auction includes only the livestock of the farmer at whose farm the auction is being conducted, a livestock dealer's license is not required. However, registration as an auctioneer is necessary.

**CONCLUSIONS:**

1. A licensed livestock market operator is not required to also be registered as an auctioneer if only livestock is auctioned at the livestock facility.
2. A licensed livestock market operator who conducts an auction at the livestock facility is required to also be registered as an auctioneer if goods in addition to livestock are auctioned at the livestock facility.
3. A licensed livestock market operator is not required to also be registered **as** an auctioneer if he or she conducts a farm auction consisting only of livestock and some of the livestock is owned by farmers other than that at whose farm the auction is conducted.
4. A licensed livestock dealer is required to also be registered as an auctioneer if he or she conducts a farm auction at which goods in addition to livestock are auctioned.
5. A livestock dealer license is not required for a farm auction at which the only livestock auctioned is owned by the farmer at whose farm the auction is conducted. However, registration as an auctioneer is required.

**EDITOR'S NOTE:**

In addition to the above, please carefully read sec. 95.69, Stats., which defines "livestock dealer" and lists the exceptions to this term. See the Table of Contents for the location of sec. 95.69, Stats., in this booklet.